



STATE OF ILLINOIS

POLLUTION CONTROL BOARD

309 WEST WASHINGTON STREET SUITE 300

CHICAGO, ILLINOIS 60606

TELEPHONE
312-793-8620

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August 29, 1978

Mr. Harold G. Baker
Attorney at Law
56 South 65th Street
Belleville, Illinois 62076

FINAL COVER DUE BY FEB. 24, 1981

RE: PCB77-84, EPA v. PAUL SAUGET and SAUGET & CO.

Enclosed please find a certified copy of the OPINION AND ORDER of the Board adopted on August 24, 1978 for the above captioned matter.

Very truly yours,

Christan L. Moffett
Christan L. Moffett
Clerk of the Board

Enc.

cc: Environmental Control Division, Office of the Attorney General
Illinois Environmental Protection Agency
Hearing Officer: Mr. Melroy B. Hutnick

cc All Land
9-20-78

DCM
KM
Bill

August 24, 1978

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)

Complainant,)

vs.)

PCB 77-84)

PAUL SAUGET, individually, SAUGET AND)
COMPANY, a Delaware corporation, EAGLE)
MARINE INDUSTRIES, INC., a Missouri)
corporation, and RIVER PORT FLEETING)
INC., a Missouri corporation,)

Respondents.)

MR. WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED
ON BEHALF OF THE COMPLAINANT.

MR. HAROLD BAKER APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed March 16, 1977 by the Environmental Protection Agency (Agency). An amended complaint was filed August 5, 1977. The amended complaint alleges that Respondents Paul Sauget and Sauget and Company, operated a refuse disposal site of approximately 35 acres located in Township 2 North, Range 10 West of 3rd Principal Meridian, Centreville Township, St. Clair County, Illinois. The site is located partly within the limits of the Village of Sauget, Illinois and lies adjacent to the Mississippi River. It further alleges that the remaining Respondents presently own portions of the site. The amended complaint alleges that the site was run in such a manner as to violate Rule 305(c) of the Chapter 7: Solid Waste Regulations and Section 21 of the Act, Rule 203(a) of the Chapter 3: Water Pollution Regulations (Chapter 3) and Sections 12(a), 12(d) and 9(c) of the Environmental Protection Act (Act), and Rule 5.07(b) of the Public Health Regulations and hence a violation of Section 21(b) of the Act.

Upon a motion by complainant, Respondents, Eagle Marine Industries, Inc. and River Port Fleeting, Inc., were dismissed by a Board order of March 16, 1978. A hearing was held on June 20, 1978 at which the remaining parties presented a stipulation to the Board for acceptance. No testimony was given.

The stipulated agreement provides the following facts. Paul Sauget is an officer and principal owner of Sauget and Company. At all times pertinent until November 15, 1973 Sauget and Company was authorized to transact business in Illinois. Beginning in the fall of 1959 and continuing each and everyday to on or about April 26, 1973, Sauget and Company operated a refuse disposal site located at the site in question.

Eagle Marine Industries, Inc. presently owns a portion of said refuse disposal site formerly operated by Sauget and Company. River Port Fleeting, Inc. also presently owns a portion of the said disposal site. These Respondents agreed by stipulation to allow access to the site to remedy the situation and were dismissed by a previous Board order.

The stipulation further provides that Paul Sauget and Respondent Sauget and Company have failed to place a final cover of at least two feet of suitable material over the entire surface of all completed portions of the refuse site. Cover which Respondents believed to be acceptable or suitable, or both, has been placed on the site although the Agency gave notice to the contrary. Final cover should have been placed upon the site prior to October 26, 1973.

In PCB 71-29, which the parties agreed should be incorporated into this proceeding, the Board accepted testimony that Paul Sauget had been given permission by the Director of the Illinois Department of Public Health to use cinders as cover material. Thus for the purposes of the stipulation the parties agreed that cinders used by the Respondents as cover material prior to the Board decision in PCB 71-29 on May 26, 1971 are accepted as cover material but not for that portion of the site operated after May 26, 1971. Cinders shall not be used hereafter as cover material by Respondents.

At the disposal site, refuse was deposited commencing in the northern portion of the site in 1959 and continuing thereafter in a southerly direction. The parties agree that the 1966 operating face shall be deemed to have been a straight line perpendicular to the levee running along the road at the south end of Union Electric's fly ash pond. It is further agreed that the 1971 operating face shall be deemed to have been a straight line parallel to and 1200 feet southerly of the 1966 operating face.

Paul Sauget and Sauget and Company admit the allegations contained in paragraph 15 of Count V of the Amended Complaint, in that each of them, since October 26, 1973, has failed to place a compacted layer of at least two feet of suitable material over the entire portion of the refuse disposal site operated by them. They do not necessarily admit that final cover has not been placed upon the refuse disposal site, there having heretofore been disputes concerning the depth or the suitability, or both, of the final cover. These Respondents agree to place two feet of suitable cover material on said site in accordance with Rule 5.07(b) of the Rules and Regulations for Refuse Disposal Sites and Facilities. The stipulation provides a more detailed plan for placement of final cover. The stipulation provides that the final cover shall be of the quality agreed upon by the parties in May, 1978. If

there is any change in cover the Agency shall be notified. The agreement also provides conditions under which the time in which Respondents are to meet their obligations may be extended beyond the thirty (30) months stipulated for completion.

Respondents agree to file a performance bond of \$125,000.00 with the Agency. Respondents also agree to a penalty of \$5,000.00 to be paid in two monthly installments of \$2,500.00 per month. All other allegations shall be dismissed with prejudice.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. The Board finds Respondents, Paul Sauget and Sauget and Company, in violation of Rule 5.07(b) of the Public Health Regulations and Section 21(b) of the Act. The remaining allegations are dismissed. In light of Section 33(c) of the Act the stipulated penalty of \$5,000.00 is appropriate. This is assessed jointly and severally. Respondents did have notice of cover requirements because of the previous enforcement case PCB 71-29 and considerable time has passed since the cover should have been applied. The Agency's definition of "suitable material" included in Exhibit A is acceptable for the purposes of the stipulated agreement.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.


ORDER

It is the order of the Pollution Control Board that:

1. Paul Sauget and Sauget and Company are found to be in violation of Rule 5.07(b) of the Public Health Regulations and Section 21(b) of the Act. The remaining allegations are dismissed.
2. Respondents shall comply with all the provisions of the stipulation incorporated by reference as if fully set forth herein. Respondents shall file a performance bond with the Agency in the amount of \$125,000.00. Respondents shall jointly and severally pay a penalty of \$5,000.00 pursuant to the terms of the stipulated agreement. Payment shall be by certified check or money order payable to:

Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of August, 1978 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board